



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

04 DEC 2006

Gary M. Nath
Nath & Associates, PLLC
1030 15th St., N.W., 6th Floor
Washington, DC 20005-1503

In re Application of
HAAPIANEN, et al.
U.S. Application No.: 10/555,387
PCT No.: PCT/FI04/00274
Int. Filing Date: 06 May 2004
Priority Date: 07 May 2003
Attorney Docket No.: 27058U

For: METHOD FOR THE TREATMENT OF
VEGETABLE MATERIAL, PRODUCT
OBTAINED BY THE METHOD AND USE OF
THE PRODUCT

DECISION ON PETITION

UNDER 37 CFR 1.47(a)

This decision is in response to applicant's "Petition Under 37 CFR 1.47 For Filing When an Inventor Refuses to Sign" filed 16 August 2006 and supplemented by additional papers on 09 November 2006 in the United States Patent and Trademark Office (USPTO).

BACKGROUND

On 06 May 2004, applicant filed international application PCT/FI04/00274, which claimed a priority date of 07 May 2003. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 18 November 2004. Pursuant to 37 CFR 1.495, the deadline for payment of the basic national fee in the United States was to expire 30 months from the priority date, 07 November 2005.

On 02 November 2005, applicant filed a transmittal letter for entry into the national stage in the United States accompanied by the requisite basic national fee; an English translation of the international application; a first preliminary amendment and an Information Disclosure Statement.

On 16 June 2006, applicant was mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371" (Form PCT/DO/EO/905) informing applicant of the need to provide an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a) and (b), identifying the application by the International application number and international filing date. Applicant was afforded two months to file the proper reply and informed that this period could be extended pursuant to 37 CFR 1.136(a).

On 16 August 2006, applicant filed the present petition under 37 CFR 1.47(a).

On 09 November 2006, applicant filed a supplemental petition under 37 CFR 1.47(a).

containing updated information as to the last known address of the fourth inventor, Mr. Ilkka Lehtomaki.

DISCUSSION

A petition under 37 CFR 1.47(a) must be accompanied by (1) the fee under 37 CFR 1.17(g), (2) factual proof that the missing joint inventor refuses to execute the application or cannot be reached after diligent effort, (3) a statement of the last known address of the missing inventor, and (4) an oath or declaration by each 37 CFR 1.47(a) applicant on his or her own behalf and on behalf of the non-signing joint inventor. Applicant has satisfied all four items.

Regarding item (1), applicant has provided payment of \$200.00 petition fee.

As to item (2), as stated in the Manual of Patent Examination Procedure (MPEP), Section 409.03(d) Proof of Unavailability or Refusal, "Before a refusal can be alleged, it must be demonstrated that a *bona fide* attempt was made to present a copy of the application papers (specification, including claims, drawings, and oath or declaration) to the non-signing inventor for signature."

Applicant has included exhibits which show that the two non-signing inventors for the present application, Ilkka Lehtomaki and Markku Patajoki, were mailed a complete set of application papers. Applicant has included mail receipts which show that the inventors personally signed for the papers. Applicant has further included a letter from Mr. Ilkka Lehtomaki explaining that he will not execute the documents. As far as Mr. Patajoki, given the proof of his receipt of the papers and non-response, his silence will be considered a refusal for the purposes of proceeding pursuant to 37 CFR 1.47(a).

Regarding item (3), applicant has provided the last known address of the non-signing inventors.

As to item (4), applicant has filed a compliant declaration of the inventors executed by the remaining inventors on their own behalf and on behalf of the non-signing inventors.

Accordingly, it is proper to grant applicant's petition at this time.

CONCLUSION

For the reasons above, applicant's petition under 37 CFR 1.47(a) is **GRANTED**.

The application has an international filing date of 06 May 2004 under 35 U.S.C. 363, and will be given a date of **16 August 2006** under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4).

As provided in 37 CFR 1.47(c), a notice of the filing of this application will be forwarded

Application No.: 10/555,387

3

to the non-signing inventor at his last known address of record. A notice of the filing of the application under 37 CFR 1.47(a) will be published in the Official Gazette.

This application is being returned to the DO/EO/US for processing in accordance with this decision. Specifically, the mailing of a Notification of Acceptance (Form PCT/DO/EO/903).



Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: (571) 272-3294
Fax: (571) 273-0459